

**BEFORE THE
CALIFORNIA BOARD OF ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

DARROW C. GARNER
1402 Crane Brook
Austin, TX 78746
California Practice Privilege
Unique Identifier No. YO90659

Respondent.

Case No.: AC-2008-24

OAH No.: L2009010372

DECISION AND ORDER

The attached Stipulated Surrender of Practice Privilege and Order of the Administrative Law Judge is hereby adopted by the California Board of Accountancy of the Department of Consumer Affairs, as its Decision in the above-entitled matter.

This Decision shall become effective on April 27, 2009.

It is so ORDERED on March 27, 2009.



For The CALIFORNIA BOARD OF ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS

1 EDMUND G. BROWN JR., Attorney General
of the State of California
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6

7 Attorneys for Complainant

8 **BEFORE THE**
CALIFORNIA BOARD OF ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS
9 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation and Statement of
Issues re. Administrative Suspension Order
11 Against:

12 DARROW CRAIG GARNER
1402 Canoe Brook
13 Austin, TX 78746

14 Practice Privilege Unique Identifier
Number YO90659

15
16 Respondent.

Case No. AC-2008-24

**STIPULATED SURRENDER OF
PRACTICE PRIVILEGE AND
ORDER**

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18 In the interest of a prompt and speedy resolution of this matter, consistent with the
19 public interest and the responsibility of the California Board of Accountancy of the Department
20 of Consumer Affairs the parties hereby agree to the following Stipulated Surrender of Practice
21 Privilege and Order which will be submitted to the Board for approval and adoption as the final
22 disposition of the Accusation and Statement of Issues re. Administrative Suspension Order.

23 **PARTIES**

24 1. Patti Bowers (Complainant) is the Executive Officer of the California
25 Board of Accountancy ("Board") and succeeds Dan Rich as the complainant in this matter. This
26 action was brought solely in Ms. Bowers' and Mr. Rich's official capacities. Complainant is
27 represented in this matter by Edmund G. Brown Jr., Attorney General of the State of California,
28 by Scott J. Harris, Deputy Attorney General.

2. Darrow Craig Garner (“Respondent”) is represented in this proceeding by attorney Anthony J. Garafola, whose address is 2625 Fair Oaks Blvd., Suite 7, Sacramento, CA 95864.

3. On or about February 17, 1977, the Board issued Practice Privilege Unique Identifier Number YO90659 ("California Practice Privilege") to Respondent.

Respondent submitted a Notification and Agreement to Conditions for the Privilege to Practice Public Accounting in California Pursuant to California Business and Professions Code Section 5096 and Title 16, Division 1, Article 4 of the California Code of Regulations on or about July 10, 2007. Respondent's California Practice Privilege was suspended pursuant to Board Administrative Suspension Order No. 2008-1-PP, as of June 25, 2008. Respondent submitted a Notice of Appeal, contesting the Administrative Suspension of his California Practice Privilege. However, Respondent's California Practice Privilege expired on or about July 11, 2008, and has not been renewed.

JURISDICTION

4. Accusation and Statement of Issues re. Administrative Suspension Order No. AC-2008-24 was filed before the Board and is currently pending against Respondent. The Accusation and Statement of Issues re. Administrative Suspension Order, and all other statutorily required documents, were properly served on Respondent on or about August 14, 2008. Respondent timely filed his Notice of Defense contesting the Accusation and Statement of Issues re. Administrative Suspension Order. A copy of Accusation and Statement of Issues re. Administrative Suspension Order No. AC-2008-24 is attached as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation and Statement of Issues re. Administrative Suspension Order No. AC-2008-24. Respondent also has carefully read, fully discussed with counsel, and understands the effects of this Stipulated Surrender of Practice Privilege and Order.

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6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation and Statement of Issues re. Administrative Suspension Order No. AC-2008-24, the right to be represented by counsel, at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

8. Respondent understands and agrees that the charges and allegations in Accusation and Statement of Issues re. Administrative Suspension Order No. AC-2008-24, if proven at a hearing, would constitute cause for administratively suspending and imposing discipline upon his California Practice Privilege.

9. Respondent understands that by signing this stipulation he enables the Board to issue an order accepting the surrender of his California Practice Privilege and uphold Administrative Suspension Order No. 2008-1-PP, without further process.

CONTINGENCY

10. This stipulation shall be subject to approval by the California Board of Accountancy. Respondent understands and agrees that counsel for Complainant and the staff of the California Board of Accountancy may communicate directly with the Board regarding this stipulation and surrender, without notice to or participation by Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he may not withdraw from this agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Surrender and Disciplinary Order shall be of no force or effect, and, except for this paragraph, it shall be

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1 inadmissible in any legal action between the parties, and the Board shall not be disqualified from
2 further action by having considered this matter.

3 11. The parties understand and agree that facsimile copies of this Stipulated
4 Surrender of Practice Privilege and Order, including facsimile signatures thereto, shall have the
5 same force and effect as the originals.

6 12. In consideration of the foregoing admissions and stipulations, the parties
7 agree that the Board may, without further notice or formal proceeding, issue and enter the
8 following Order:

9 **ORDER**

10 IT IS HEREBY ORDERED that California Practice Privilege, Practice Privilege
11 Unique Identifier No. YO90659, issued to Respondent Darrow Craig Garner, is surrendered and
12 accepted by the California Board of Accountancy. FURTHER, Administrative Suspension Order
13 No. 2008-1-PP is upheld.

14 13. The surrender of Respondent's California Practice Privilege and the
15 acceptance of the surrendered Practice Privilege by the Board shall constitute the imposition of
16 discipline against Respondent. This stipulation constitutes a record of discipline and shall
17 become a part of Respondent's Practice Privilege history with the Board.

18 14. Respondent shall lose all rights and privileges to practice as a Certified
19 Public Accountant in California as of the effective date of the Board's Decision and Order.

20 15. Respondent shall not reapply or seek reinstatement of a California Practice
21 Privilege, or licensure as a Certified Public Accountant, in the State of California.

22 16. Respondent shall pay the Board its costs of investigation and enforcement
23 in the amount of \$3,971.50 on the effective date of the Board's Decision and Order.

24 **ACCEPTANCE**

25 I have carefully read the above Stipulated Surrender of Practice Privilege and
26 Order and have fully discussed it with my attorney, Anthony J. Garafola. I understand the
27 stipulation and the effect it will have on my California Practice Privilege and right to practice
28 accountancy in the State of California in the future. I enter into this Stipulated Surrender of

1 Practice Privilege and Order voluntarily, knowingly, and intelligently, and agree to be bound by
2 the Decision and Order of the California Board of Accountancy.

3 DATED: 1-20-09.

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9 I have read and fully discussed with Respondent Darrow Craig Garner the terms
10 and conditions and other matters contained in this Stipulated Surrender of Practice Privilege and
11 Order. I approve its form and content.

12 DATED: 1-26-09.

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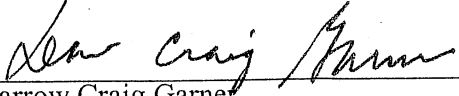
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Darrow Craig Garner
Respondent


ANTHONY J. GARAFOLA
Attorney for Respondent

ENDORSEMENT

17 The foregoing Stipulated Surrender of Practice Privilege and Order is hereby
18 respectfully submitted for consideration by the California Board of Accountancy of the
19 Department of Consumer Affairs.

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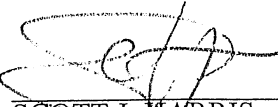
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DATED: 1/30/09

EDMUND G. BROWN JR., Attorney General
of the State of California

GLORIA A. BARRIOS
Supervising Deputy Attorney General


SCOTT J. HARRIS
Deputy Attorney General

Attorneys for Complainant

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8 **BEFORE THE**
CALIFORNIA BOARD OF ACCOUNTANCY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation and Statement of
11 Issues re. Administrative Suspension Order
Against:

12 DARROW CRAIG GARNER
13 Dupont & Morgan LLP
4525 Harding Road, Suite 200
14 Nashville, TN 37205

15 Practice Privilege Unique Identifier
Number YO90659

16 Respondent.

Case No. AC-2008-24

Administrative Suspension Order
Case No. 2008-1-PP

ACCUSATION

and

STATEMENT OF ISSUES RE.
ADMINISTRATIVE SUSPENSION
ORDER

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19 Complainant alleges:

20 **PARTIES**

21 1. Dan Rich ("Complainant") brings this Accusation and Statement of Issues
22 re. Administrative Suspension Order solely in his official capacity as the Acting Executive
23 Officer of the California Board of Accountancy ("Board"), Department of Consumer Affairs.

24 2. On or about July 11, 2007, the California Board of Accountancy issued a
25 Practice Privilege Unique Identifier Number YO90659 ("California Practice Privilege") to
26 Darrow Craig Garner ("Respondent"). Respondent submitted a Notification and Agreement to
27 Conditions for the Privilege to Practice Public Accounting in California Pursuant to California
28 Business and Professions Code Section 5096 and Title 16, Division 1, Article 4 of the California

1 Code of Regulations (hereinafter, "application for California Practice Privilege") on or about
2 July 10, 2007. Respondent certified under penalty of perjury that the information contained
3 therein was true and correct. Respondent stated that he qualified for a California Practice
4 Privilege based on having a current, valid license to practice public accountancy from the State
5 of Texas, License No. 017173, the State of Tennessee, License No. 19411, and the State of
6 Alabama, License No. 10401-R. Respondent's California Practice Privilege was suspended
7 pursuant to Board Administrative Suspension Order No. 2008-1-PP, as of June 25, 2008.
8 Respondent submitted a Notice of Appeal, contesting the Administrative Suspension of his
9 California Practice Privilege on or about July 25, 2008. However, Respondent's California
10 Practice Privilege and the Administrative Suspension expired on or about July 11, 2008.

11 JURISDICTION

12 3. This Accusation is brought before the Board under the authority of the
13 following laws. All section references are to the Business and Professions Code (Code) unless
14 otherwise indicated.

15 4. Section 5096 states:

16 "(a) An individual whose principal place of business is not in this state and who
17 has a valid and current license, certificate or permit to practice public accountancy from another
18 state may, subject to the conditions and limitations in this article, engage in the practice of public
19 accountancy in this state under a practice privilege without obtaining a certificate or license
20 under this chapter if the individual satisfies one of the following:

21 (1) The individual has continually practiced public accountancy as a certified
22 public accountant under a valid license issued by any state for at least four of the last ten years.

23 (2) The individual has a license, certificate, or permit from a state which has been
24 determined by the board to have education, examination, and experience qualifications for
25 licensure substantially equivalent to this state's qualifications under Section 5093.

26 (3) The individual possesses education, examination, and experience
27 qualifications for licensure which have been determined by the board to be substantially
28 equivalent to this state's qualifications under Section 5093.

1 (b) The board may designate states as substantially equivalent under paragraph
2 (2) of subdivision (a) and may accept individual qualification evaluations or appraisals
3 conducted by designated entities, as satisfying the requirements of paragraph (3) of subdivision
4 (a).

5 (c) To obtain a practice privilege under this section, an individual who meets the
6 requirements of subdivision (a), shall do the following:

7 (1) In the manner prescribed by board regulation, notify the board of the
8 individual's intent to practice.

9 (2) Pay a fee as provided in Article 8 (commencing with Section 5130).

10 (d) Except as otherwise provided by this article or by board regulation, the
11 practice privilege commences when the individual notifies the board, provided the fee is received
12 by the board within 30 days of that date. The board shall permit the notification to be provided
13 electronically.

14 (e) An individual who holds a practice privilege under this article:

15 (1) Is subject to the personal and subject matter jurisdiction and disciplinary
16 authority of the board and the courts of this state.

17 (2) Shall comply with the provisions of this chapter, board regulations, and other
18 laws, regulations, and professional standards applicable to the practice of public accountancy by
19 the licensees of this state and to any other laws and regulations applicable to individuals
20 practicing under practice privileges in this state except the individual is deemed, solely for the
21 purpose of this article, to have met the continuing education requirements and ethics examination
22 requirements of this state when such individual has met the examination and continuing
23 education requirements of the state in which the individual holds the valid license, certificate, or
24 permit on which the substantial equivalency is based.

25 (3) Shall not provide public accountancy services in this state from any office
26 located in this state, except as an employee of a firm registered in this state. This paragraph does
27 not apply to public accountancy services provided to a client at the client's place of business or
28 residence.

1 (4) Is deemed to have appointed the regulatory agency of the state that issued the
2 individual's certificate, license, or permit upon which substantial equivalency is based as the
3 individual's agent on whom notices, subpoenas or other process may be served in any action or
4 proceeding by the board against the individual.

5 (5) Shall cooperate with any board investigation or inquiry and shall timely
6 respond to a board investigation, inquiry, request, notice, demand or subpoena for information or
7 documents and timely provide to the board the identified information and documents.

8 (f) A practice privilege expires one year from the date of the notice, unless a
9 shorter period is set by board regulation..

10 (g)(1) No individual may practice under a practice privilege without prior
11 approval of the board if the individual has, or acquires at any time during the term of the practice
12 privilege, any disqualifying condition under paragraph (2) of this subdivision.

13 (2) Disqualifying conditions include:

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15 (B) Revocation, suspension, denial, surrender or other discipline or sanctions
16 involving any license, permit, registration, certificate or other authority to practice any
17 profession in this or any other state or foreign country or to practice before any state, federal, or
18 local court or agency, or the Public Company Accounting Oversight Board.

19 (C) Pendency of any investigation, inquiry or proceeding by or before any state,
20 federal or local court or agency, including, but not limited to, the Public Company Accounting
21 Oversight Board, involving the professional conduct of the individual.

22 (D) Any judgment or arbitration award against the individual involving the
23 professional conduct of the individual in the amount of thirty thousand dollars (\$30,000) or
24 greater.”

25 (E) Any other conditions as specified by the board in regulation.

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1 5. Section 5096.3 states:

2 “(a) Practice privileges are subject to revocation, suspension, fines or other
3 disciplinary sanctions for any conduct that would be grounds for discipline against a licensee of
4 the board or for any conduct in violation of this article or regulations implementing this article.

5 (b) Practice privileges are subject to discipline during any time period in which
6 they are valid, under administrative suspension, or expired.

7 (c) The board may recover its costs pursuant to Section 5107 as part of any
8 disciplinary proceeding against the holder of a practice privilege.

9 (d) An individual whose practice privilege has been revoked may apply for a new
10 practice privilege not less than one year after the effective date of the board's decision revoking
11 the individual's practice privilege unless a longer time period, not to exceed three years, is
12 specified in the board's decision revoking the practice privilege.

13 (e) The provisions of the Administrative Procedure Act, including, but not limited
14 to, the commencement of a disciplinary proceeding by the filing of an accusation by the board
15 shall apply under this article.”

16 6. Section 5069.4 states:

17 “(a) The right of an individual to practice in this state under a practice privilege
18 may be administratively suspended at any time by an order issued by the board or its executive
19 officer, without prior notice or hearing, for the purpose of conducting a disciplinary
20 investigation, proceeding, or inquiry concerning the representations made in the notice, the
21 individual's competence or qualifications to practice under practice privileges, failure to timely
22 respond to a board inquiry or request for information or documents, or under other conditions
23 and circumstances provided for by board regulation.

24 (b) The administrative suspension order is immediately effective when mailed to
25 the individual's address of record or agent for notice and service as provided for in this article.

26 (c) The administrative suspension order shall contain the following:

27 (1) The reason for the suspension.

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1 (2) A statement that the individual has the right, within 30 days, to appeal the
2 administrative suspension order and request a hearing.

3 (3) A statement that any appeal hearing will be conducted under the provisions of
4 the Administrative Procedure Act 1 applicable to individuals who are denied licensure, including
5 the filing of a statement of issues by the board setting forth the reasons for the administrative
6 suspension of practice privileges and specifying the statutes and rules with which the individual
7 must show compliance by producing proof at the hearing and in addition any particular matters
8 that have come to the attention of the board and that would authorize the administrative
9 suspension, or the denial of practice privileges.

10 (d) The burden is on the holder of the suspended practice privilege to establish
11 both qualification and fitness to practice under practice privileges.

12 (e) The administrative suspension shall continue in effect until terminated by an
13 order of the board or the executive officer or expiration of the practice privilege under
14 administrative suspension.

15 (f) Administrative suspension is not discipline and shall not preclude any
16 individual from applying for a license to practice public accountancy in this state or from
17 applying for a new practice privilege upon expiration of the one under administrative suspension,
18 except that the new practice privilege shall not be effective until approved by the board.

19 (g) Notwithstanding any administrative suspension, a practice privilege expires
20 one year from the date of notice unless a shorter period is set by board regulation.

21 (h) Proceedings to appeal an administrative suspension order may be combined or
22 coordinated with proceedings for denial or discipline of a practice privilege."

23 7. Section 5100 states, in pertinent part:

24 "After notice and hearing the board may revoke, suspend, or refuse to renew any
25 permit or certificate granted under Article 4 (commencing with Section 5070) and Article 5
26 (commencing with Section 5080), or may censure the holder of that permit or certificate for
27 unprofessional conduct that includes, but is not limited to, one or any combination of the
28 following causes:

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(b) A violation of Section 478, 498, or 499 dealing with false statements or omissions in the application for a license, in obtaining a certificate as a certified public accountant, in obtaining registration under this chapter, or in obtaining a permit to practice public accountancy under this chapter.

...

(d) Cancellation, revocation, or suspension of a certificate or other authority to practice as a certified public accountant or a public accountant, refusal to renew the certificate or other authority to practice as a certified public accountant or a public accountant, or any other discipline by any other state or foreign country.”

8. Section 498 states:

“ A Board may revoke, suspend, or otherwise restrict a license on the ground that the licensee secured the license by fraud, deceit, or knowing misrepresentation of a material fact or by knowingly omitting to state a material fact.”

9. California Code of Regulations, title 16, section 32 states, in pertinent part:

....

“(b) A holder of a practice privilege who acquires any of the conditions listed in subsection (c) of this Section during the term of the practice privilege shall cease practicing immediately and shall not begin practicing again without prior approval of the Board.

(c) Conditions requiring Board approval to practice under a practice privilege:

....

“(2) The individual has had a revocation, suspension, denial, surrender, or other discipline or sanction involving any license or other authority to practice any profession in California or in any other state or foreign country or to practice before any state, federal, or local court or agency, or the Public Company Accounting Oversight Board (PCAOB), except for the following occurrences:

....

1 (3) The individual is the subject of an investigation, inquiry, or proceeding by or
2 before a state, federal, or local court or agency (including the PCAOB) involving his or her
3 professional conduct.

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5 (7) The individual has had a judgment or arbitration award in an amount of
6 \$30,000 or greater entered against him or her in a civil matter involving the professional conduct
7 of the individual.”

8 10. Section 5107 states:

9 “(a) The executive officer of the board may request the administrative law judge,
10 as part of the proposed decision in a disciplinary proceeding, to direct any holder of a permit or
11 certificate found to have committed a violation or violations of this chapter to pay to the board
12 all reasonable costs of investigation and prosecution of the case, including, but not limited to,
13 attorneys' fees. The board shall not recover costs incurred at the administrative hearing.”

14 FIRST CAUSE FOR DISCIPLINE

15 (Discipline by Another State)

16 11. Respondent is subject to discipline pursuant to Code sections 5096.3,
17 subdivision (a), and 5100, subdivision (d), in conjunction with 5096, subdivisions (g)(1) and
18 (g)(2)(B), in that Respondent was disciplined by the Texas State Board of Public Accountancy
19 on or about March 27, 2008. The circumstances are as follows:

20 a. In the disciplinary actions styled In Re: Darrow Craig Garner, Complaint
21 No. 07-04-01L, and In Re: Darrow Garner PC, Complaint No. 08-01-07L, before the Texas State
22 Board of Public Accountancy, Respondent was ‘reprimanded,’ and his Public Accountancy
23 Certificate No. 017173 and Firm License No. C06459, were placed on limited scope status.

24 b. In its final Board Order in Complaint No. 07-04-01L and Complaint No.
25 08-01-07L, the Texas State Board of Public Accountancy found that Respondent committed
26 multiple violations of the Public Accountancy Act, Texas Occupations Code; including, but not
27 limited to, submitting a false and misleading firm registration application to the Tennessee State
28 Board of Accountancy, practicing public accountancy in an unregistered entity, practicing public

1 accountancy with an improper firm name, specifically Respondent used the names of non-CPAs
2 in his firm name, using false and misleading advertising on his Internet website, and, failing to
3 participate in the Texas State Board of Accountancy's peer-review program.

4 SECOND CAUSE FOR DISCIPLINE

5 (Fraud, Deceit, and/or, Misrepresentation or Omission of Material Fact)

6 12. Respondent is subject to discipline pursuant to Code sections 5096.3,
7 subdivision (a), 5100, subdivision (b) and 498, in conjunction with Code section 5096,
8 subdivisions (g)(1), (g)(2)(B), (g)(2)(C) and (g)(2)(D), in that Respondent secured his California
9 Practice Privilege by fraud, deceit, or knowing misrepresentation of a material fact, or by
10 knowingly omitting to state a material fact. The circumstances are as follows:

11 a. Respondent submitted his application for a California Practice Privilege
12 on or about July 10, 2007. Respondent certified under penalty of perjury that the information
13 contained in his application for a California Practice Privilege was true and correct. By signing
14 the application, Respondent further recognized that "any misrepresentation or omission in
15 connection with this notification [application] disqualifies me from the California Practice
16 Privilege and is cause for termination...." In fact, Respondent misrepresented, and/or, omitted
17 material facts regarding disqualifying conditions pursuant to Code section 5096, subdivisions
18 (g)(1), (g)(2)(B), (g)(2)(C) and (g)(2)(D) as discussed below.

19 Code Section 5096(g)(2)(B) - Prior Discipline

20 b. In the section entitled "Disqualifying Conditions" of Respondent's
21 application for California Practice Privilege, Respondent marked "No" in responding to the
22 statement, "I have had a license, registration, permit or authority to practice a profession
23 surrendered, denied, suspended, revoked or otherwise disciplined or sanctioned.....," when, in
24 fact, on or about April 19, 1995, in the disciplinary action styled In Re: Darrow Craig Garner,
25 Complaint No. 92-09-11L, before the Texas State Board of Public Accountancy, Respondent
26 was disciplined by the Texas State Board of Public Accountancy and found in violation of the
27 Texas State Board of Public Accountancy's Rules of Professional Conduct and the Texas State
28 Public Accountancy Act of 1991, as related to a final judgment in the 126th Judicial District

1 Court of Travis County, Texas in the case entitled, *Pat Winston v. Darrow Garner*, Cause No.
2 464,950, as more fully discussed in subparagraph (d), below.

3 Code Section 5096(g)(2)(C) - Pending Investigation, Inquiry or Proceeding

4 c. In the section entitled "Disqualifying Conditions" of Respondent's
5 application for California Practice Privilege, Respondent marked "No" in responding to the
6 statement, "I am currently the subject of an investigation, inquiry or proceeding by or before a
7 state, federal, or local court or agency (including the PACOB) involving my professional
8 conduct." In fact, Respondent was subject to an ongoing investigation, inquiry or proceeding, in
9 that the disciplinary actions styled In Re: Darrow Craig Garner, Complaint No. 07-04-01L, and
10 In Re: Darrow Garner PC, Complaint No. 08-01-07L, before the Texas State Board of Public
11 Accountancy, as more fully discussed in paragraph 10, above, which were filed on or about
12 April 2, 2007 (approximately three (3) months before Respondent submitted his application for
13 California Practice Privilege). These complaints were not resolved until on or about
14 March 27, 2008.

15 Code Section 5096(g)(2)(D) - Judgment of \$30,000 or Greater

16 d. In the section entitled "Disqualifying Conditions" of Respondent's
17 application for California Practice Privilege, Respondent marked "No" in responding to the
18 statement, "I have had a judgment or arbitration award against me involving my professional
19 conduct in the amount of \$30,000 or greater," when in fact, on or about April 19, 1995, in the
20 disciplinary action styled In Re: Darrow Craig Garner, Complaint No. 92-09-11L, before the
21 Texas State Board of Public Accountancy, it was ordered and adjudged that Respondent pay
22 \$40,000.00 to a complainant, as related to a final judgment in the 126th Judicial District Court of
23 Travis County, Texas in the case entitled, *Pat Winston v. Darrow Garner*, Cause No. 464,950, in
24 which it was found that Respondent "knowingly breached the fiduciary duties and various
25 professional standards which he owed to the Plaintiff (Pat Winston) in his relationship to her as
26 her accountant. The [Respondent] committed fraud and malpractice against the Plaintiff...."

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3. Taking such other and further action as deemed necessary and proper.

DATED: August 8, 2006



DAN RICH
Acting Executive Officer
California Board of Accountancy
Department of Consumer Affairs
State of California
Complainant

LA2008600971

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